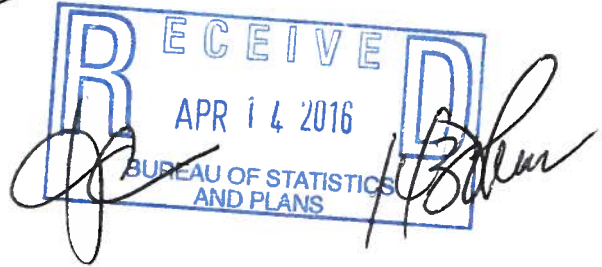




U.S. DEPARTMENT OF COMMERCE-
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Pacific Islands Regional Office
1845 Wasp Blvd., Bldg 176
Honolulu, Hawaii 96818
(808) 725-5000 • Fax: (808) 725-5215

MAR 30 2016

Ms. Lola Leon Guerrero, Acting Administrator
Guam Coastal Management Program
Bureau of Statistics & Plans
PO Box 2950
Hagatna, GU 96932



Dear Ms. Guerrero:

SUBJECT: Federal Consistency Determination; Interim Final Rule for Western and Central Pacific Fisheries for Highly Migratory Species; Fishing Effort Limits in Purse Seine Fisheries for 2016 (RIN 0648-BF93)

The National Marine Fisheries Service (NMFS) is undertaking a rulemaking to carry out the obligations of the United States under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention). This action would put into place a limit for 2016 on fishing effort by U.S. purse seine fishing vessels in a specific area within the Convention Area. The action would be initiated with the issuance of an interim rule that would be effective upon publication in the *Federal Register*. NMFS would consider public comments received on the interim rule and issue a final rule, as appropriate.

This action is essentially the same as regulatory actions taken in 2014 and 2015, which resulted in the establishment of identical limits on fishing effort by U.S. purse seine fishing vessels. This action would not affect the coastal zone of Guam in a manner not fully evaluated in our consistency reviews for those earlier actions.

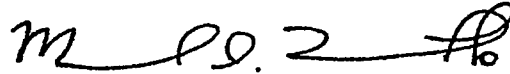
Pursuant to the Coastal Zone Management Act of 1972, as amended (CZMA; 16 U.S.C. 1451 et seq.), and the National Oceanic and Atmospheric Administration's regulations implementing the federal consistency requirements of the CZMA at 15 CFR Part 930, NMFS has determined that the rule is consistent to the maximum extent practicable with the enforceable policies of Guam's Coastal Zone Management Program. Enclosed please find a consistency determination that includes the information required by 15 CFR 930.39.



FC 246-0013

I am writing to request your concurrence with our determination. Given the need to make this rule effective as early as May 2016, I also would like to request that the federal consistency notification schedule for this activity be shortened, and that you agree to provide us your response by April 22, 2016. The reasons for this shortened notification schedule are stated in the attached Consistency Determination. We reiterate that this is the same regulatory action that was taken in 2014 and 2015, and that no new impacts are anticipated. Please contact Tom Graham (808-725-5032) if you have any questions or need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "M. D. Tosatto".

Michael D. Tosatto
Regional Administrator

Enclosure



Coastal Zone Management Act Federal Consistency Determination

Agency: National Marine Fisheries Service (NMFS)

Relevant Authorities: The Coastal Zone Management Act of 1972, as amended (CZMA; 16 U.S.C. 1451 *et seq.*); CZMA Federal Consistency Regulations (15 CFR Part 930)

Determination: Consistent to the maximum extent practicable with the enforceable policies of Guam's Coastal Zone Management Program

Description of proposed activity: NMFS plans to issue a rule to implement decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Commission) for the United States. The rule would be issued under the authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFC Implementation Act; 16 U.S.C. 6901 *et seq.*).

The Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention) governs fisheries for highly migratory species (HMS). The area of application of the Convention is roughly the entire western and central Pacific Ocean (WCPO).¹ The Commission is the body charged with making the decisions needed to implement the provisions of the Convention. As a Contracting Party to the Convention, the United States is a member of the Commission.

The activity would implement certain provisions of the Commission's "Conservation and Management Measure for Bigeye, Yellowfin and Skipjack Tuna in the Western and Central Pacific Ocean" (CMM 2015-01), adopted in December 2015. This rule would be limited to implementing the provisions of CMM 2015-01 regarding allowable levels of fishing effort in 2016 by purse seine vessels on the high seas and in the U.S. exclusive economic zone (EEZ) in the Convention Area between the latitudes of 20° N. and 20° S. (an area referred to in U.S. fisheries regulations as the Effort Limit Area for Purse Seine, or ELAPS).

Purse seine fishing effort limits in the ELAPS have been in place since 2009. For 2015, there was a limit of 1,828 fishing days in the ELAPS (see 50 CFR 300.223(a)). The limit was reached and the ELAPS was closed to purse seine fishing from June 15 through December 31, 2015 (see temporary rule published June 8, 2015; 80 FR 32313). This rule would establish the same ELAPS limit for 2016; that is, 1,828 fishing days.² If NMFS determines that the limit is

¹ The exact boundaries of the Convention Area are provided in the Convention, which is available, along with a map of the Convention Area, at <http://www.wcpfc.int/key-documents/convention-text>

² In an advance notice of proposed rulemaking (ANPR) issued October 23, 2015 (80 FR 64382), NMFS stated that it will consider proposing regulations that mitigate adverse economic impacts of purse seine fishing restrictions on the U.S. territories that participate in the Commission (American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; collectively "U.S. Participating Territories"), to the extent consistent with U.S. obligations under the Convention. NMFS also stated that it is considering proposing regulations that recognize that in the context of the Convention, one or more of the U.S. Participating Territories have their own purse seine fisheries that are distinct from the purse seine fishery of the United States. In that case, the purse seine fisheries of the U.S. Participating Territories might be subject to special provisions of the Convention and of Commission

expected to be reached before the end of 2016, it would issue a *Federal Register* notice announcing that purse seine fishing in the ELAPS is prohibited for the remainder of the year. The notice would be issued at least seven days in advance of the closure.

Based on available information, there is a substantial likelihood that the limit would be reached before the end of 2016. If the limit is reached and the ELAPS is closed for the remainder of 2016, the U.S. purse seine fleet would exert less fishing effort in the ELAPS in 2016 than it would if there were no limit, and it might shift some of its fishing effort to areas outside the ELAPS, such as foreign EEZs in the WCPO, in which access by U.S. purse seine vessels is allowed under a multilateral agreement, and possibly the eastern Pacific Ocean. The limit could also result in there being slightly less overall fishing effort by the U.S. WCPO purse seine fleet in 2016 than would occur if there were no limit.

Expected coastal effects: The U.S. purse seine fishery operates exclusively in the tropics, generally within 10° of the equator, so no direct effects in Guam's coastal zone management area would be expected from the action. The rule, which could result in a reduction in fishing effort by the U.S. WCPO purse seine fleet, might have some minor indirect effects on WCPO stocks of the target species of the purse seine fishery, skipjack tuna and yellowfin tuna, as well as of incidentally caught species, including bigeye tuna. To the extent these stocks occur in Guam's coastal zone, the action could, through the possible reduction in fishing effort, cause a reduction in the fishing mortality rates of these stocks and conceivably lead to greater abundance of these stocks in Guam's coastal zone. However, because any reductions in fishing mortality rates would be very small compared to the stocks' total fishing mortality rates, and because any such reductions would be limited to 2016, the resulting effects on stock sizes and abundance in Guam's coastal zone would be very small.

Consistency evaluation: The policies and objectives of Guam's Coastal Zone Management Program, as set forth in Guam Land-Use Policies, Exec. Order 78-37 (Nov. 15, 1978), promote the sustainable development and use of marine and coastal resources. As discussed above, the activity taken by NMFS would not cause any direct effects to Guam's coastal zone management area. The underlying objective of the activity is to conserve WCPO stocks of three tropical tuna species. It would be implemented as part of an international agreement that all the fishing and coastal nations that are parties to the WCPFC are obligated to implement. That objective is very much in line with the policies and objectives of Guam's Coastal Zone Management Program, particularly those related to the management of marine resources. Thus, NMFS has determined that the activity would be consistent to the maximum extent practicable with the enforceable policies and objectives of Guam's coastal zone management program.

Request for shortened notification schedule: In order to satisfy the obligations of the United States under the Convention and to achieve, to the extent possible, the Commission's conservation and management objectives, it is important that NMFS implement the U.S. purse

decisions, and NMFS would implement those provisions and decisions accordingly. NMFS is conducting impact analyses to inform the development of regulations of the types described in the ANPR, and is not yet prepared to propose such regulations. However, establishment of the limit of 1,828 fishing days under this rule is necessary for the U.S. to meet its obligations under the Convention, and would not preclude NMFS from proposing at a later date such regulations for 2016 or subsequent years.

seine fishing effort limit for 2016 as soon as possible, as information indicates that the limit could be reached by May. For this reason, pursuant to 15 CFR 930.36(b), NMFS requests that you agree to a shortened the federal consistency notification schedule for this activity, and send your response no later than April 22, 2016.

